

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2015-16		FY 2016-17	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	2,163,789		5,913,553	
CASH FUNDS	209,536		502,340	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	2,373,325	0	6,415,893	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

This bill would change classification of penalties, punishments, probation and parole provisions, and provisions relating to criminal records and restitution and provide for a special legislative committee. It would outright repeal section 43-413 OJS evaluations. The bill states that it is the intent of the Legislature to appropriate thirty thousand dollars to the Supreme Court for fiscal year 2015-16 to create a sentencing information data base.

The Supreme Court’s estimated costs are summarized below:

ITEMS	FY16		FY17		FY18		FY19		FY20	
	# of Staff	Cost	# of Staff	Cost	# of Staff	Cost	# of Staff	Cost	# of Staff	Cost
Probation Field Offices	20.00	811,038	66.00	5,264,359	104.00	8,515,258	127.00	10,680,392	135.00	11,622,487
Reporting Center	5.00	472,356	5.00	458,406	5.00	472,606	5.00	487,318	5.00	499,346
Probation Administration	5.00	723,000	6.00	1,392,021	8.00	1,338,849	9.00	1,459,242	9.00	1,466,600
Probation Program Expense for Offender	-	800,500	-	4,239,900	0.00	6,216,900	0.00	7,437,800	0.00	7,790,000
Court Administration	3.00	466,613	4.00	664,491	7.00	1,029,340	11.00	1,528,785	12.00	1,627,869
Total	33.00	3,273,507	81.00	12,019,177	124.00	17,572,954	152.00	21,593,537	161.00	23,006,302
By Fund Source:										
GENERAL FUNDS		3,063,971		11,516,837		16,771,744		20,609,854		21,963,182
CASH FUNDS		209,536		502,340		801,210		983,683		1,043,119
TOTAL		3,273,507		12,019,177		17,572,954		21,593,537		23,006,302

The Supreme Court’s detailed response is attached and it explains the costs summarized in the above-table.

The Supreme Court’s response shows the addition of a County Court Judge starting in FY18, and two County Court Judges in FY19 and FY20. The Legislative Fiscal Office (LFO) would note that adding a new judge will require a separate bill.

The Department of Correctional Services (DCS) estimated costs are summarized below:

ITEMS	FY2015-16	FY2016-17	FY2015-16	FY2016-17
	Number of Positions		Expenditures	
Corrections Parole Supervisors	2.00	2.00	93,344	93,344
Research Manager	2.00	2.00	105,133	105,133
Administrative Assistant III	1.00	1.00	45,255	45,255
Benefits			73,120	73,120
Operating			(1,231,284)	(5,920,136)
Capital Outlay			14,250	0
TOTAL	5.00	5.00	(900,182)	(5,603,284)

See the attached response of DCS for details summarized in the above-table.

For every inmate, the Department of Correctional Services (DCS) incurs per diem costs. The FY14 per diem cost for an individual inmate was \$7,124 per year. This is the cost for food, medical care, inmate wages, clothing, cleaning supplies, food service supplies, cell and dorm supplies, other supplies, and transportation.

This bill changes certain penalties and these changes could result in fewer persons being sent to prison. Fewer prison inmates could result in lower per diem costs. DCS estimates a reduction of 216 inmates for FY16 (last quarter of the fiscal year) and 864 for FY17. This could result in per diem savings of approximately \$1.5 million and \$6.2 million, respectively.

As of January 31, 2015, the inmate prison population was almost 160% of design capacity. On January 31, 2014, the inmate prison population was almost 155% of design capacity.

The Department of Health and Human Services estimates no fiscal impact from this bill.

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2015

LB⁽¹⁾ 605

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska Department of Corrections

Prepared by: ⁽³⁾ Chris Peters Date Prepared: ⁽⁴⁾ 2/16/2015 Phone: ⁽⁵⁾ (402) 479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2015-16		FY 2016-17	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	(900,182)	0	(5,603,284)	0
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	(900,182)	0	(5,603,284)	0

Explanation of Estimate:

LB 605 contains a number of criminal justice reforms developed by the Council of State Governments Justice Reinvestment Working Group. The components of the bill which have a fiscal impact on the Department of Correctional Services as outlined below:

Updating felony theft thresholds – The bill updates a number of theft related offenses to increase the felony threshold for inflation. This is predicted to result in the diversion of 175 offenders from prison by reducing their crimes from felonies to misdemeanors

Diverting misdemeanors from prison - Section 7 provides that Class I misdemeanor sentences shall be sentenced to jail rather than prison. NDCS had 169 Class I misdemeanor admissions in FY 2013.

Presumption of probation for class IV felonies – Section 51 creates a presumption that individuals convicted of Class IV felonies shall receive a sentence of probation rather than incarceration unless the judge specifically overrides the presumption on the record.

Split sentencing for class IV, IIIa and III felonies - The bill proposes to restructure the sentences for Class IV, IIIA and III felonies to provide for split sentences which include a period of incarceration followed by a mandatory period of community supervision by probation. The length of the sentences is designed to mirror the current length of stay for inmates convicted of Class IV, IIIa and III felonies. This change will also reduce the number of individuals placed on parole as offenders committing of low level felonies after the effective date of the act will receive split sentences and be supervised by probation rather than parole.

Evaluation of programs – Section 68 of the bill requires the evaluation of programs funded by the Department. Evaluating all programs operated by the Department utilizing the standards set out in the bill will have a significant fiscal impact. The Department would need to hire two full time researchers to coordinate evaluations with outside contractors and also contract with outside entities to perform the evaluations. The cost of such evaluations is estimated at \$200,000.

Parole training and risk assessment - The bill requires parole administration to adopt a risk assessment tool and provide training to parole officers in a number of areas by July 1, 2016 and for all new officers within 1 year of hire. The cost will include 2 Parole Supervisors dedicated to staff training, and \$60,000 for the programming and validation of the risk and needs assessment.

Restitution – The bill requires the Department to deduct restitution payments monthly from any institutional account with more than \$20 and annually for those with less than \$20. It is estimated that programming to implement the requirements of the bill into the current Inmate Accounting system would cost \$12,500.

An Administrative Assistant III would be added to the Policy Department to coordinate the implementation of this legislation.

All of the provisions in the bill affecting sentencing and penalty thresholds apply only to offenses committed on or after the effective date of the act. This will delay the impact of the sentencing provisions of the bill by 6-9 months due to the time it takes for offenders to be arrested, prosecuted, convicted and sentenced. Additionally, the bill does not contain an emergency clause and will become effective in early September. For these reasons, the estimates in this fiscal note assume that inmates diverted from prison will not impact the prison population until the last quarter of FY16. NDCS anticipates a reduction of 216 inmates for FY2016 and 864 for FY2017. This translates to savings in per diem expenses of \$1.5M and \$6.2M, respectively.

The increase in parolees due to the adoption of parole guidelines will be offset by the reduction of parolees due to the implementation of split sentencing for Class III, IIIA and IV felonies.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2015-16</u>	<u>2016-17</u>
	<u>15-16</u>	<u>16-17</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Corrections Parole Supervisors	2	2	93,344	93,344
Research Manager	2	2	105,133	105,133
Administrative Assistant III	1	1	45,255	45,255
Benefits.....			73,120	73,120
Operating.....			(1,231,284)	(5,920,136)
Travel.....				
Capital outlay.....			14,250	
Aid.....				
Capital improvements.....				
TOTAL.....			(900,182)	(5,603,284)

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Mike Mason

Date Prepared:(4) 2-18-15

Phone: (5) 471-0676

	<u>FY 2015-2016</u>		<u>FY 2016-2017</u>	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$0	\$0	\$0	\$0

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

There is no fiscal impact to the Department of Health and Human Services.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2015-2016 EXPENDITURES	2016-2017 EXPENDITURES
	15-16	16-17		
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$0	\$0

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2015

LB⁽¹⁾ 605

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾

Supreme Court

Prepared by: ⁽³⁾ Eric Asboe

Date Prepared: ⁽⁴⁾ 2/17/15

Phone: ⁽⁵⁾ 471-4138

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2015-16</u>		<u>FY 2016-17</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	<u>See cost projection</u>	_____	<u>See cost projection</u>	_____

Explanation of Estimate:

Please refer to the attached narrative and cost projection.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2015-16 EXPENDITURES</u>	<u>2016-17 EXPENDITURES</u>
	<u>15-16</u>	<u>16-17</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

LB 605, 2015 Fiscal Note Narrative

LB 605 will increase General and Cash Fund expenditures because of new judicial branch duties, both for the Court system and Probation. Those portions of the Justice Reinvestment Policy Framework, developed by The Council of State Governments (CSG) Justice Center, and incorporated in LB 605, that have the greatest fiscal impact are:

1. Strategy One includes use of prison for violent felony offenders, expanding access to Probation's Specialized Substance Abuse Supervision (SSAS) program and expanding Probation to supervise and provide services to more non-violent offenders.
2. Strategy Two includes restructuring felony statutes, using Probation for supervision of offenders after release from incarceration, and improving victim restitution.

Implementation of these strategies would result in the need for funding:

1. Specialized probation officers and related operating, travel, and capital outlay expenses.
2. Field personnel as support staff for officers and related expenses.
3. Administrative staff to process and monitor increased use of vouchers for services.
4. Expansion of reporting centers and the programs they offer. SSAS has been shown to be most effective when tied to reporting centers.
5. Services, such as substance abuse treatment, for the increased number of offenders on probation or post-release supervision.
6. Additional county court staff and county court judges to process increased felony and misdemeanor caseload, an increase in restitution payments and for judicial oversight related to custodial sanctions and post-release supervision.
7. IT services and staff to integrate current judicial branch computer systems that record, monitor and provide data on short-term projects such as programming for new felony classifications and long-term functions such as post-release supervision.
8. Training staff and expenses, both short-term and ongoing, for education to, for example, county court staff on new classes of offenses and restitution, probation officers on new supervision procedures and judges on sentencing.

Notes:

1. CSG projections of the increase in felony population and decrease in the misdemeanor population were used in determining the number of additional officers needed. In the cost projection, this is shown by an increase in Specialized Officers and a decrease, or negative number, for Probation Officers (PO). However, the Supreme Court differs from CSG officer estimates because of different caseload assumptions. CSG estimated a caseload of 40. The Supreme Court uses a caseload of approximately 30 for felonies and 100 for misdemeanors.
2. The cost of supervising a felony offender is much higher than supervising a misdemeanor offender. For example, a felony offender is more likely to need services such as substance abuse treatment. As a result, the cost of supervising one additional felony offender is not entirely offset by the reduction of one less misdemeanor offender. Therefore, service expenditures in the cost projection are higher than CSG estimates for community-based programs and treatment.

3. CSG concentrated on the personal services cost of additional officers. The Supreme Court cost projection includes the full cost of increasing field staff, such as support staff, operating, travel and equipment expenses.
4. Section 75 implies that every probationer will be subject to an assessment process. Probation currently assess offenders as necessary, but not in all cases. The cost projection assumes continuation of current practice. Expenditures will increase if every offender is required to be assessed.
5. The Supreme Court prefers that a judicial hearing be held at the beginning of post-release supervision. However, since LB 605 does not require such hearings, the potential impact on judicial resources was not estimated.
6. LB 605 may decrease Cash Fund revenue from monthly probationer supervision fees due to the provisions of Section 76 which are intended to move offenders off probation faster. An estimate of the impact on revenue was not made at this time. This Cash Fund, the Probation Program Cash Fund, is used to provide treatment and services to probationers, parolees, and problem-solving court participants.
7. FY16 personnel expenditures reflect hiring as of 1/1/16.

LB605 Cost Projection

Cost Description	FY16		FY17		FY18		FY19		FY20	
	+649 Felony -589 Misd.		+1728 Felony -1207 Misd.		+2244 Felony -1131 Misd.		+2570 Felony -1099 Misd.		+2653 Felony -1067 Misd.	
	#	Cost	#	Cost	#	Cost	#	Cost	#	Cost
Probation Field										
Specialized Officer	11	466,409	31	2,711,322	45	4,059,972	53	4,933,314	56	5,342,538
PO	-3	(110,497)	-4	(304,186)	-2	(157,042)	-1	(81,088)	-1	(83,109)
PO Assistant	4	133,470	14	965,213	21	1,496,049	26	1,914,269	28	2,112,891
Drug Tech	3	81,861	9	508,306	14	818,487	17	1,028,997	18	1,116,657
Clerical	3	88,202	10	608,117	16	1,006,480	20	1,301,638	21	1,400,762
Supervisor	2	87,942	6	544,087	10	935,212	12	1,157,562	13	1,285,299
Operating Expenses		8,500		56,500		89,000		108,500		115,500
State Vehicle / Travel		48,000		162,000		258,000		312,000		330,000
Safty Vest		7,150		13,000		9,100		5,200		1,950
Subtotal	20	811,038	66	5,264,359	104	8,515,258	127	10,680,392	135	11,622,487
Reporting Center										
RC Coodinator	5	219,856	5	453,406	5	467,606	5	482,318	5	494,346
Operating Expenses		2,500		5,000		5,000		5,000		5,000
Reporting Center Equipment		250,000		-		-		-		-
Subtotal	5	472,356	5	458,406	5	472,606	5	487,318	5	499,346
Probation Administration										
Program Officer	0	-	1	89,426	1	92,236	2	190,293	2	195,040
Quality Assurance Reviewer	1	41,629	1	85,881	2	177,204	2	182,844	2	187,405
Staff Assistant for FFS	1	32,762	1	67,703	1	69,970	1	72,324	1	74,127
IT Application Analyst	1	44,536	1	91,840	1	94,710	1	97,683	1	100,119
IT Data Analyst	1	44,536	1	91,840	1	94,710	1	97,683	1	100,119
Trainer	1	44,536	1	91,840	2	189,420	2	195,365	2	200,239
Operating Expenses		3,750		11,500		15,500		18,500		22,500
DAS and Auditor Assessments		15,000		38,500		58,500		70,500		74,500
Rent		9,750		13,650		15,600		17,550		17,550
Non Capitalized Equipment		20,000		6,500		11,000		8,000		4,500
IT Application		200,000		300,000		150,000		150,000		150,000
Data Sharing		175,000		175,000		175,000		175,000		175,000
Training Services		41,500		86,500		95,000		83,500		65,500
Program Evaluation		50,000		150,000		100,000		100,000		100,000
Subtotal	5	723,000	6	1,392,021	8	1,338,849	9	1,459,242	9	1,466,600
Probation Program Expense for Offender										
Substance Abuse Treatment		124,000		747,200		1,075,200		1,278,400		1,336,000
Assessment Instrument		150,000		150,000		150,000		150,000		150,000
Electronic Monitoring/GPS		46,500		280,200		403,200		479,400		501,000
Continuous Alcohol Monitoring		93,000		560,400		806,400		958,800		1,002,000
Mental Health Treatment		155,000		934,000		1,344,000		1,598,000		1,670,000
Reporting Center Services		217,000		1,307,600		1,881,600		2,237,200		2,338,000
Drug Testing CF		15,000		260,500		556,500		736,000		793,000
Subtotal		800,500		4,239,900		6,216,900		7,437,800		7,790,000
Probation Total	30	2,806,893	77	11,354,686	117	16,543,613	141	20,064,752	149	21,378,433
General Fund		2,791,893		11,094,186		15,987,113		19,328,752		20,585,433
Cash Fund		15,000		260,500		556,500		736,000		793,000
Court Administration										
County Court Judge	0	-	0	-	1	200,918	2	421,683	2	441,211
Court Room Clerk	0	-	0	-	1	65,021	2	134,504	2	137,856
Records Clerk	1	28,641	2	118,511	3	183,931	4	253,793	5	325,146
Restitution Specialist	0	-	0	-	0	-	1	105,290	1	107,917
Trainer	1	44,536	1	91,840	1	94,710	1	97,683	1	100,119
JUSTICE Business Analyst CF	1	44,536	1	91,840	1	94,710	1	97,683	1	100,119
Operating Expenses		2,250		5,000		7,000		10,000		10,500
DAS and Auditor Assessments		1,500		2,000		3,500		5,500		6,000
Rent		5,850		7,800		13,650		21,450		23,400
Non Capitalized Equipment		8,000		1,000		1,000		5,000		1,500
Interpreting Service		1,800		20,000		35,400		45,200		47,600
Training Services		4,500		1,500		4,500		6,000		1,500
Data Sharing		175,000		175,000		175,000		175,000		175,000
JUSTICE Re-programming CF		150,000		150,000		150,000		150,000		150,000
Court Total	3	466,613	4	664,491	7	1,029,340	11	1,528,785	12	1,627,869
General Fund		272,077		422,651		784,630		1,281,103		1,377,750
Cash Fund		194,536		241,840		244,710		247,683		250,119
Grand Total	33	3,273,507	81	12,019,177	124	17,572,954	152	21,593,537	161	23,006,302
General Fund		3,063,971		11,516,837		16,771,744		20,609,854		21,963,182
Cash Fund		209,536		502,340		801,210		983,683		1,043,119